

# EXHIBIT N

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BOSTANY LAW FIRM

FAX No. 212 530 4413

P. 001

THE BOSTANY LAW FIRM

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NEW JERSEY OFFICE

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October 17, 2007

Hon. Laura Taylor Swain  
United States District Judge  
Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, New York 10007

Re: *GMA v. BOP, LLC, et. al*  
Docket No.: 07 CV 3219 (LTS)

Your Honor:

We respectfully reply to BOP's October 1 letter of opposition to GMA's request that judgment be entered in accordance with Fed.R.Civ.P. 68.

It is respectfully submitted that BOP's argument seeking to limit the scope of the language that BOP itself prepared (which we believe to be frivolous) is a collateral matter. See e.g. *Webb v. James* 147 F.3d 617, 621 (7<sup>th</sup> Cir.1998). ("Once the acceptance has been properly filed, judgment must be entered... the proper procedural device for relief from a Rule 68 judgment is the same as for any other judgment: Rule 60"); *Harris v. City of New York* 2004 WL 1555194 (S.D.N.Y. 2004).

It is error to delay entry of judgment under Rule 68 even where the parties have an immediate disagreement on the meaning of the terms contained in the offer. *Mallory v. Eyrich* 922 F.2d 1273, 1279 (6<sup>th</sup> Cir. 1991). See also *Fafel v. Dipaola*, 399 F.3d 403, 414 (1<sup>st</sup> Cir. 2005) (Courts interpret language of the resulting Rule 68 judgment only upon a Rule 60(b) motion after judgment is entered). "Rule 68 does not condition entry on the resolution of all issues." *Mallory*, supra. See *SAS v. Trintex* 709 F.Supp. 455, 457 (S.D.N.Y. 1989) (Though defendant sought to revoke its offer of judgment on December 1, the Court entered judgment on December 8 then entertained defendant's December 19 motion to modify the judgment).

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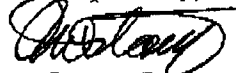
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BOP's unsupported argument that because its offer contained an injunction, there should be a stay of entry, is unsound, particularly where as here, the injunction is strikingly similar to one already entered by the Court on consent as to defendant BELMONDO and on default as against other defendants. This is not one of the rare instances cited by BOP in Wright & Miller where the injunction "calls for an illegal act" or "for affirmative action involving distinctions based on race".

Wherefore, we respectfully ask that the judgment be entered. A revised form of order which removes the language that BOP found objectionable is respectfully attached.

Respectfully,



John P. Bostany

Enclosures

cc: Jeffrey R. Wang, Esq. (via fax)

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P.003

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
GMA ACCESSORIES, INC.

Plaintiff,

**ORDER and JUDGMENT as to BOP, LLC**

Civil Action No.: 07CV3219 (LTS)

- against -

BOP, LLC, GIRLSHOP, INC.,  
SHOWROOM SEVEN STUDIOS, INC.,  
JONATHAN SOLNICKI,  
BELMONDO and EMINENT, INC.

Defendants.  
-----X

WHEREAS, plaintiff has accepted the offer of Judgment pursuant to Rule 68 as to BOP, LLC, (hereinafter "BOP") and for good cause shown,

IT IS hereby ORDERED, ADJUDGED and DECREED that a \$15,000 judgment be entered in favor of the plaintiff GMA Accessories, Inc. and against defendant BOP, LLC and, it is

FURTHER ORDERED and ADJUDGED that BOP is permanently enjoined from using the mark CHARLOTTE or any marks similar to or substantially indistinguishable therefrom, including the mark CHARLOTTE SOLNICKI, in connection with the sale, purchase, offering for sale, display, transfer, marketing, advertising or distribution of unauthorized clothing or related merchandise.

The Clerk is directed to enter Judgment as to BOP accordingly, there being no just reason for delay.

Dated: New York, New York

October \_\_\_\_\_, 2007

SO ORDERED: \_\_\_\_\_

Hon. Laura Taylor Swain  
United States District Judge

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
GMA ACCESSORIES, INC.,

Plaintiff,

- against -

BOP, LLC, GIRLSHOP, INC.,  
SHOWROOM SEVEN STUDIOS, INC.,  
JONATHAN SOLNICKI,  
BELMONDO and EMINENT, INC.

Defendants.  
-----X

:  
:  
:  
: 07 Civ. 3219 (LTS) (DCF)  
: ECF Case

:  
:  
: **OFFER OF JUDGMENT**  
: **PURSUANT TO FEDERAL RULE**  
: **OF CIVIL PROCEDURE 68**  
:  
:  
:

Pursuant to Rule 68 of the Federal Rules of Civil Procedure, defendant Bop, LLC ("Bop"), by its attorneys, hereby makes an offer of judgment in the above-captioned action as follows:

1. Judgment shall be entered in favor of plaintiff and against Bop in the amount of fifteen thousand dollars (\$15,000), inclusive of costs accrued to the date of this offer and exclusive of attorneys' fees, if any, awarded by the Court.
2. An injunction shall be entered permanently enjoining Bop from using the mark CHARLOTTE or any marks similar to or substantially indistinguishable therefrom, including the mark CHARLOTTE SOLNICKI, in connection with the sale, purchase, offering for sale, display, transfer, marketing, advertising or distribution of unauthorized clothing or related merchandise.

This offer of judgment is made for the purposes specified in Rule 68, and is not to be construed as an admission that Bop is liable in this action or that plaintiff has suffered any injury.

Pursuant to Rule 68 of the Federal Rules of Civil Procedure, this offer may be accepted by written notice served on or before September 21, 2007, after which this offer shall be deemed rejected.

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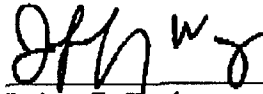
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Dated: New York, New York  
September 7, 2007

FRIEDMAN KAPLAN SEILER &  
ADELMAN LLP



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Jeffrey R. Wang  
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*Attorneys for Defendant Bop, LLC*

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*Attorneys for plaintiff*

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